

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:16-cv-00178-MR
CRIMINAL CASE NO. 1:13-cr-00039-MR-DLH-1**

TRACY BERNARD HARDIN,

Petitioner,

VS.

UNITED STATES OF AMERICA,

Respondent.

ORDER

THIS MATTER is before the Court on a Motion to Withdraw as Attorney, filed by the Federal Public Defender of Western North Carolina.¹ [Civil Case No. 1:16-cv-00178-MR (“CV”), Doc. 6; Criminal Case No. 1:13-cr-00039-MR-DLH-1 (“CR”), Doc. 21].

Counsel filed a Motion to Vacate under 28 U.S.C. § 2255 on behalf of Petitioner on June 18, 2016, contending that Petitioner was eligible for relief from his enhanced sentence under United States v. Johnson, 135 S. Ct. 2551 (2015). The Court placed Petitioner's motion in abeyance pending the outcome of Beckles v. United States, Supreme Court No. 15-8455. In

¹ Counsel was appointed to represent Petitioner by this Court's November 22, 2015, Standing Order No. 3:15-MC-196.

Beckles, the petitioner argued that his career-offender sentence was erroneously enhanced by an unconstitutionally vague residual clause of U.S.S.G. § 4B1.2. On March 6, 2017, the Supreme Court held in Beckles that the advisory Guidelines are not subject to vagueness challenges. Beckles v. United States, 137 S. Ct. 886 (2017).

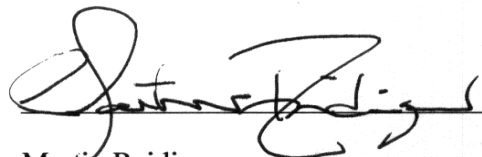
Having apparently determined that Petitioner's Johnson claim has no merit in light of the holding in Beckles, the Federal Public Defender now seeks to withdraw as counsel so that Petitioner may continue to pursue relief *pro se*, if he chooses to do so.

IT IS, THEREFORE, ORDERED that:

1. Counsel's Motion to Withdraw as Attorney [CV Doc. 6; CR Doc. 21] is **GRANTED**, and the Federal Public Defender of the Western District of North Carolina is relieved from any further representation of Petitioner.
2. Petitioner shall have twenty (20) days from service of this Order in which to respond *pro se* to the Government's pending motion to dismiss [CV Doc. 5].

IT IS SO ORDERED.

Signed: May 9, 2017


Martin Reidinger
United States District Judge

